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October 13, 2010

VIA E-MAIL AND  
1<sup>ST</sup> CLASS MAIL

Ms. Lori Houck Cora  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 10, ORC-158  
1200 Sixth Avenue+  
Seattle, WA 98101

Re: Portland Harbor Superfund Site; Linnton Plywood Association ("LPA")  
**FRE 408 Confidential Settlement Communication**

Dear Lori:

In our recent conversation you raised concerns about whether or not the Oregon Division of State Lands ("DSL") might have a right to share in insurance proceeds that may be recoverable from LPA's insurance carrier. From the analysis set forth below, I think you will see that DSL does not have any independent right to share in the insurance proceeds since they benefit from the proposed payment of them.

To begin with, we consider DSL's potential claims against LPA. As you know, there is a series of leases that have been executed between LPA and DSL covering the lands owned by DSL; in part, pertinent base provisions require LPA to indemnify DSL for any claims that arise during the term of the lease ("Indemnity Claims") and to restore the property to the pre-lease condition at the termination of the lease ("Restoration Claims"). They also require that LPA name DSL as an "additional insured" under its liability policies (the same policies we have been discussing with EPA over the last several months).

If the CERCLA claims made against LPA extend to DSL as the owner of a portion of the land impacted by LPA's operations, they could give rise to DSL's right to seek indemnity from LPA. Assuming that the claims were covered by insurance, as to which DSL is an additional insured, payment of insurance proceeds to settle the claims inure to the benefit of DSL. In short, the payment to EPA of the \$500,000.00 on certain policies, plus whatever is derived from claims for additional insurance coverage, applies to settle LPA's liability based upon its ability to pay. At the same time, it relieves DSL from any liability derivative of LPA and it does so by virtue of EPA through LPA receiving the full value of the available insurance coverage, which is all DSL

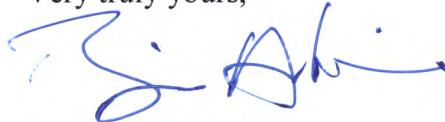
Ms. Lori Houck Cora  
October 13, 2010  
Page 2

is entitled to as an additional insured. This analysis is true even if EPA chooses to share the insurance proceeds with the Natural Resources Trustee. In fact, that settlement also inures to the benefit of DSL.

DSL's Restoration Claims (which to a large degree could involve the possible removal of some pilings and structures) may be resolved as part of Wildlands' implementation of its planned restoration project on the LPA property and in the leased submerged lands.

In summary, completing the settlement with EPA, which would lead to the sale to Wildlands, provides DSL with complete, and perhaps even more, benefit than anything DSL could accomplish by bringing suit directly for indemnity or demanding that the insurance policies be used to pay any claims. This benefit is even greater in light of the fact that Liberty has denied coverage under the remaining \$1.4 Million in policies.

Very truly yours,



William P. Hutchison

WPH/dod

cc: Mike McNulty  
Robert Taylor  
Barry Stein  
Kristine Koch  
Paul B. George